REVIEWS.

LIS PENDENS. A TREATISE ON THE LAW OF LIS PENDENS, OR THE EFFECT OF JURISDICTION UPON PROPERTY INVOLVED IN SUIT. By John I. Bennett, LL. D. Chicago: E. B. Myers & Co., 1887. 8vo. pp. lxii and 57–520.

This subject is one of considerable intricacy and difficulty, and yet one which lies within comparatively narrow limits, and would seem to admit of exhaustive treatment in a volume of 500 pages. This appears to be the first attempt to deal with the law of *Lis Pendens* by itself, and the subject has received but meagre notice in the more general treatises. Hence, it might reasonably be expected that a good book would be fully appreciated by the profession. This is not a good book, — at least not very good. When a legal author proposes to himself to "keep within the line of the decided cases," and only occasionally yield to his original judgment, and exercise the right of questioning the correctness of decisions, which seem to him vicious and without the support of reason, he is either too modest, or not modest enough. What is wanted in a text-book is not a mere statement of what each case decides, but an orderly comparison of the cases, with a statement of the conclusions to be drawn from them, and a decided opinion as to the legal standing and theoretical soundness of the decisions. If a man who wants to write a book is capable of this, let him speak out and give his brethren the benefit of his special study; if not, let him make a digest, and call it such. Mr. Bennett, like many makers of text-books, takes a middle course, and produces neither a very good text-book, nor a very good digest. An examination of the book gives one the impression that the author laboriously collected a large amount of material, and then could not handle it. The matter is poorly classified. The treatment is desultory and circuitous: it does not lead anywhere. The mystifying sub-title is an illustration of the vagueness that pervades the whole. The meaning of "jurisdiction" as there used may be inferred from a sentence on p. 87: "On the other hand, text-writers would seem to favor the view that, where courts have jurisdiction, and the lis pendens binds personal property, the binding force of the jurisdiction is efficient everywhere."

In addition to this lack of directness and incisiveness there are numerous minor defects in the literary execution. The author makes frequent use of that very annoying misarrangement of words, which brings a modifier between *to* and the infinitive; *e.g.*, "held to otherwise have barred." He makes constant use of manufactured adjectives, like "pendente lite purchaser," "per curiam decision," etc., without even the half-apology of italics, which, at least, disclaim any intention to smuggle in barbarisms by stealth. Little slips like "*of strictissimi juris*," "*cum onore*," "obiter dicta . . . *was* used," and a certain fondness for Latin maxims, suggest the surmise that the author's Latin remains with him only as a reminiscence. Occasional misspelled words and errors of syntax further detract from the general effect.

The book contains a table of cases cited, — two of them, in fact, — and a full index; but these seem to have been added in a perfunctory way, because they are conventional appendages of law books, rather than from any intention to make them useful. The table of cases, use-

less enough at best, is here rendered wholly useless by the fact that it does not state where the case is cited. The alphabetical arrangement scarcely goes beyond the first letter of plaintiffs' names, and the first table is followed by eight pages of additional cases cited, without anything to call attention to the fact that they are not all under one alphabet. It would require at least one more table of additional cases to include all the decisions on the subject, if that is what was intended. For example, only five of the fourteen cases given under *Lis Pendens*, in Kinney's Digest of the Supreme Court Decisions, appear in these lists. The index is alphabetical only as to the principal words, and this makes its fulness its worst feature. Thus, under *Lis Pendens* is a jumble of references, five pages in length; the references to "Territorial scope of" are scattered through those five pages in three different places.

There is also an appendix of thirty-seven pages containing the Ordinances of Lord Bacon, 101 in number. These are added, because No. 12 relates to *Lis Pendens*, and they "will be of interest to the profession for ready reference."

For giving a clear idea of *Lis Pendens* the book is scarcely equal to the nine sections in Pomeroy's Equity Jurisprudence, and it is unsatisfactory as a digest, because it does not contain all the cases, and what it does contain cannot be found. W. H. C.

THE LAW OF PARTNERSHIP. By Clement Bates. Chicago: T. H. Flood & Co. In 2 volumes. 8vo. cxciii and 1,234 pages.

Mr. Bates states very truly in his preface that "the American law [of partnership] not only has several new topics, but in many respects has developed along lines diverging from the English, and in a few respects quite opposite." The book before us aims especially to coordinate the American cases and formulate the principles underlying them, though English cases are also fully treated, particularly when they have affected American law.

Of the great labor and care spent in preparation there can be no question. All the decisions have been considered, and the citations of authorities are exceptionally full, — indeed, as a storehouse of cases the book leaves nothing to be desired.

The author's treatment of the subject is also in the main very satisfactory, and any exceptions to this are perhaps rather due to the incomplete state of the law of partnership than to any defect in presenting it. In a chapter entitled "The Firm as an Entity" it is truly said "there are certain parts of the law difficult to explain except upon the theory that a partnership is an entity," and a more frequent recognition of this in other chapters would have been well; for example, can the fact that a judgment against an adult partner, his minor copartner having pleaded infancy, may be satisfied by execution against the firm property be explained on any other theory than that the judgment is regarded as really against the firm as an entity?

The rights of firm creditors to be paid out of the firm property in preference to separate creditors is treated by the author as wholly dependent on the equity of the individual partners to have the assets so applied. Such an equity the partners undoubtedly have, but whether the rights of the creditors are dependent on this may well be doubted. How and why firm creditors should be "subrogated" to the equity of the individual partners is by no means clear, and an adoption of this view seems to lead to the very undesirable result actually reached in